

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

08/10/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2002-000175

FILED: _____

STATE OF ARIZONA

CARRIE M COLE

v.

ASHIKI AJAMA

ASHIKI AJAMA
5120 E HAMPTON AVE #1008
MESA AZ 85206-0000

REMAND DESK CR-CCC
SCOTTSDALE CITY COURT

MINUTE ENTRY

SCOTTSDALE CITY COURT

Cit. No. #1500761

Charge: 1. EXPIRED AZ REGISTRATION
2. NO PROOF OF CURRENT INSURANCE

DOB: 10/18/76

DOC: 10/22/01

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section (A).

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This matter has been under advisement since its assignment on July 11, 2002. This decision is made within 30 days as required by Rule 9.8, Maricopa County Superior Court Local Rules of Practice. This Court has considered the record of the proceedings from the Scottsdale City Court, the exhibits made of record, and the Memoranda submitted by the parties.

Oral Argument has not been requested.

Legal Background

On October 22, 2001, the Defendant was issued civil traffic citations for driving without proof of registration and insurance, which directed him to appear in Scottsdale City Court on November 26, 2001. The Defendant failed to appear in court on November 26, 2001, and a Default Judgment was entered against the Defendant on January 3, 2002. On February 4, 2002, the Defendant filed a Motion to Set Aside the Default Judgment. Subsequently, the Scottsdale Justice Court denied defendant's motion without comment. From that order, Defendant brings this appeal.

Factual Background

The facts necessary for a determination of this case on appeal are as follows: On October 22, 2001, the Appellant was issued a civil citation for violating A.R.S. section 28-2532(A), expired Arizona registration, and section 28-4135(C), no proof of current insurance. The defendant was stopped near 8600 E. Shea Blvd., in the City of Scottsdale, at approximately 1:59 p.m. by Officer Anderson of the Scottsdale Police Department. The defendant signed the citation, which directed him to appear in Scottsdale City Court on November 26, 2001, between 9:00 a.m. and 3:00 p.m. The defendant failed to appear in court on November 26, 2001, as directed, and a Default Judgment was entered against the Defendant on January 3, 2002. On January 3,

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2002, the Scottsdale City Court imposed fines against the Appellant in the amount of \$1080.00 for the default violations.

On January 18, 2002, the Scottsdale City Court received a copy of the Appellant's proof of registration (showing a MVD date stamp of November 23, 2001) and a copy of the Defendant's proof of insurance showing coverage from 06/01/01 to 06/01/02. The Defendant also sent in a Bond Card and a personal check for \$108.00.

On January 18, 2002, the Scottsdale City Court sent written correspondence to the Appellant advising him that the case had been defaulted, that the court did not accept personal checks on defaulted case, and that he owed \$1080.00.

Appellant appeared in the Scottsdale City Court on February 4, 2002, and filed a Motion to Set Aside the Judgment and Order. The Appellant's motion was denied, and the Appellant was ordered to pay \$1080.00. On February 4, 2002, the Appellant filed a Notice of Appeal. The Defendant filed his "Motion" in the Court stating that the reason that his Default Judgment should be set aside was that he paid "...for my tags before the court date...and he assumed that the DMV and Court computers were linked together..." He also stated that he "...didn't know that [he] had to go to court although he had already taken care of my tickets."

Discussion

The first issue this court must determine is whether the default judgment is valid without a signature as required by Arizona Rules of Civil Procedure, Rules 58(a) and 54(a). Rule 58(a) provides in relevant part that "...all judgments shall be in writing and *signed by a judge or court commissioner* duly authorized to do so." Rule 54(a) provides in pertinent part that a judgment is "...a decree and an order from which an appeal lies." The term "judgment" contemplated by both Rules 54(a) and 58(a) is an act of the court which is both substantively

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appealable and is in appealable form so as to vest jurisdiction in the appellate court to consider its merit. Here, the trial court's default judgment is a "judgment" that must satisfy the requirements of both rules. An order, such as a judgment is not effective until the order is reduced to writing and has been signed by the court.¹ The law regarding the requirements of a judgment is clear. In order for a judgment to be valid it must be (1) written, (2) signed by a judge, and (3) filed with the clerk of the court.²

In the instant case, the default judgment is not signed and does not satisfy the requirements of an effective judgment, and it does not constitute an appealable order. In the absence of a valid default judgment no duty exist. For it is the valid judgment or order that creates a duty and its terms govern its extent. Since only written orders signed by a judge and filed with a clerk are appealable, no valid appeal has been perfected herein.

IT IS THEREFORE ORDERED reversing and clarifying the Scottsdale City Court record to show no valid judgment or disposition of the charges in this case has occurred.

IT IS FURTHER ORDERED remanding this case back to the Scottsdale City Court for trial and all future and further proceedings.

¹ Lamb v. Superior Court In and For Maricopa County, 127 Ariz. 400, 621 P.2d 906 (1980).; Hall Family Properties, Ltd. v. Gosnell Development Corp., 185 Ariz. 382, 916 P.2d 1098 (App. Div. 1 1995).

² Focal Point v. Court of Appeals, 149 Ariz. 128, 129, 717 P.2d 432 (1986).